

# MANDATORY CONTRACT FOR PREPAID FUNERAL ARRANGEMENT

## I. PARTIES

PURCHASER: \_\_\_\_\_

Street Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Social Security #: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

FUNERAL HOME: \_\_\_\_\_

Funeral Director: \_\_\_\_\_

Street Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

## OTHER PERSONS WITH AN INTEREST IN THIS PREPAID FUNERAL ARRANGEMENT

BENEFICIARY (if different from Purchaser): \_\_\_\_\_

Street Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Social Security #: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

TRUSTEE (if other than Funeral Provider, so state): \_\_\_\_\_

Address: \_\_\_\_\_

ESCROW AGENT / Name of Institution: \_\_\_\_\_

Street \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_

## PERSON EXPECTED TO BE RESPONSIBLE FOR FUNERAL:

Name: \_\_\_\_\_ Relationship to Beneficiary \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

NOTIFICATION: Funeral Director will, within ten (10) business days of the signing of this Contract, notify in writing the Person expected To Be Responsible for Funeral that Purchaser has entered into a prepaid funeral agreement with Funeral Director and has designated that person as the Responsible Person.

If the Person expected To Be Responsible for the Funeral is present at the time the funeral arrangements are made and this Contract is executed by the Purchaser, the Person expected To Be Responsible for the Funeral may acknowledge receipt of Purchaser's appointment by signing below in the presence of the Funeral Director.

\_\_\_\_\_  
Person expected To Be Responsible for the Funeral

\_\_\_\_\_  
Date

## II. SPECIFIC CONTRACT PROVISIONS

- A. PURCHASE: Subject to the terms and conditions set forth in this Contract, Funeral Director, who is authorized agent of Funeral Home, agrees to sell and Purchaser agrees to buy the funeral services and goods described in the attached schedule A (Statement of Funeral Goods and Services Selected) in accordance with the terms and conditions in this Contract. If Purchaser has listed a Beneficiary in Section I above, it is understood that the funeral goods and services will be provided upon the death of the Beneficiary, not the Purchaser. If a separate Beneficiary is designated above, the term "Purchaser" used shall incorporate the term "Beneficiary."
- B. PERFORMANCE: The Funeral Establishment shall provide the funeral goods and services upon the death of the Beneficiary. Promptly after the funeral goods and services set forth in this Contract are provided, Funeral Director shall provide to the Escrow Agent a Death Certificate and an affidavit of performance attesting to the provision of such goods and services.
- C. PRICE: The price of the goods and services set forth on Schedule A, including an amount attributable to sales tax (if applicable) is \$ \_\_\_\_\_ (which is \_\_\_\_\_ % of the total cost). An additional amount of \$ \_\_\_\_\_ (which is \_\_\_\_\_ % of the total cost) is allocated toward cash disbursed items. The total cost of arrangements (including services, merchandise and cash disbursed items) is \$ \_\_\_\_\_ (100%).
- D. PAYMENT: The total cost of the funeral arrangements set forth in Section C shall:  
\_\_\_\_\_  
(Purchaser's Initials) Be paid in full at signing of the Contract; OR  
\_\_\_\_\_  
(Purchaser's Initials) Be paid with an initial payment of \$ \_\_\_\_\_.  
Any remaining balance will be paid before or at the time of death.  
The manner of installment payments will be set forth in Section E below:
- E. INSTALLMENT PAYMENTS: If payment is by installments, the manner of installment payments shall be:

\_\_\_\_\_  
**Note to Purchaser: All checks shall be made out to the escrow agent, or its lawful designee, named in Section I of this Contract.**

F. **INTEREST EARNED ON ESCROW ACCOUNT:** Upon performance of the Contract, the interest on this account is divided into two sections: 1) The percentage for services and merchandise of the funeral provider and 2) the percentage of cash disbursed items. The percentage of interest set forth in Section II(c) will be disbursed between both sections. If a deposit is used for payment, the interest earned is to be applied to the total amount in the account.

G. **REVOCATION STATUS:** Purchaser and Funeral Director hereby designate this Contract to be:

**REVOCABLE** (Purchaser's initials) \_\_\_\_\_ (Funeral Director's initials) \_\_\_\_\_

This Contract may be revoked by Purchaser by simply notifying Funeral Provider in writing that Purchaser no longer wants the prepaid funeral to be provided. The money Purchaser has paid, together with all interest or other earnings, will be refunded to Purchaser, less a transaction fee of not more than five percent of the total, payable to Funeral Establishment.

**IRREVOCABLE** (Purchaser's initials) \_\_\_\_\_ (Funeral Director's initials) \_\_\_\_\_

This Contract may not be revoked by Purchaser except as provided below under CANCELLATION. When Funeral Establishment has provided the funeral goods and services which are itemized in this Contract, Funeral Establishment is entitled to receive the full amount Purchaser has paid, together with interest or other earnings which have accrued. This Contract may, however, be transferred to another Funeral Provider.

PURCHASER AND FUNERAL DIRECTOR SHALL INITIAL THE SAME BLOCK.  
CROSS OUT PARAGRAPH WHICH DOES NOT APPLY.

H. **GUARANTEE STATUS:** Funeral Provider and Purchaser hereby designate this contract to be:

**GUARANTEED** (Purchaser's Initials) \_\_\_\_\_ (Funeral Director's initials) \_\_\_\_\_

Funeral Director guarantees to provide the funeral goods and services elected by Purchaser for the amount of funds in the escrow account at time of need. The cost of funeral goods and services selected by Purchaser will not be affected by future price increases to the extent that Funeral Provider will accept the principal and interest in the escrow account as payment in full, except for cash disbursed items, which are not guaranteed. See Section III(H) below for an explanation of the payment of cash disbursed items.

**NON-GUARANTEED** (Purchaser's Initials) \_\_\_\_\_ (Funeral Director's initials) \_\_\_\_\_

Funeral Director will provide the funeral goods and services selected by Purchaser at the prices being charged at time of need, including prices for cash disbursed items. The principal and interest in the escrow account will be applied to Funeral Provider's total charges. If the amount in the escrow account does not cover the funeral expenses, and no appointment has been made by the purchaser in Section III(c), an order of the probate division of the superior court of Vermont will be required to revise the disposition directions set forth in this Contract or, in the alternative, arrangements may be made by the Purchaser's estate or next-of-kin to cover any shortfall. If the amount in the escrow account is greater than the funeral expenses, the excess money will be refunded to the Purchaser or the Beneficiary's estate.

### III. GENERAL CONTRACT PROVISIONS

- A. **RELEASE OF ESCROW ACCOUNT:** Upon submission to the Escrow Agent of a Death Certificate and an Affidavit that the services and merchandise specified in this Contract have been fully performed or delivered, Escrow Agent shall pay to Funeral Provider the proceeds of the escrow account.
- B. **SUBSTITUTION OF MERCHANDISE:** In the event that the exact merchandise set forth in this contract is unavailable at the time of need, Funeral Director has the right to substitute merchandise similar in style and of equal quality as the merchandise set forth in this Contract. Funeral Director will disclose to Purchaser, Purchaser's representative or next-of-kin that the substitution has occurred.
- C. **PURCHASER'S RIGHT TO CHANGE GOODS AND SERVICES:** Funeral Director agrees that if Purchaser desires different services or merchandise other than those provided in this Contract, Purchaser may direct Funeral Director to apply the proceeds of the escrow account toward the purchase of the desired goods and services and this Contract shall be amended to reflect the changes. Under Vermont law, the funeral arrangements made by the Purchaser and set forth in this Contract may not be canceled or revised after the Purchaser's death unless the Purchaser appoints an individual to have the power to cancel or revise the funeral and disposition directions contained in this Contract. To make that appointment, the Purchaser must fill out the authorization below:

**AUTHORIZATION:** The Purchaser appoints

\_\_\_\_\_ as the person who has the authority to cancel or revise the funeral and disposition directions set forth in this Contract. If no appointment is made under this section, then no person may cancel or revise the funeral and disposition directions set forth in this Contract unless so directed by order of the probate division of the superior court in Vermont.

- D. **ADDITIONAL GOODS AND SERVICES:** In the event that additional services or merchandise, or both, are desired at the time of need, the price in effect at that time shall be charged for those items. The additional expenses shall be paid by Purchaser, next-of-kin or legal representative of Beneficiary.
- E. **ITEMS NOT PROVIDED AT TIME OF NEED:** Credit will be given by Funeral Director for the services or merchandise that are not provided at the time of need, at the price stipulated in this Contract.
- F. **FUNERAL DIRECTOR'S RIGHT TO SUBCONTRACT:** The parties agree that the Funeral Director has the right to hire another funeral service provider to perform services set forth in this Contract, in the event that Funeral Director is unable to perform.
- G. **CHANGE OF ADDRESS OF PURCHASER:** Purchaser shall promptly notify Funeral Director of any change of address.

- H. **CASH DISBURSEMENTS:** If Purchaser has contracted for any cash disbursements, as stated in Schedule A, this paragraph shall apply. The amount paid as a cash disbursement shall be deposited in the escrow account. At the time of performance, if the amount on deposit in the escrow account for the cash disbursement items (including interest earned or accrued) is less than the current amount required for such items, and no appointment has been made by the purchaser in Section III(c), an order of the probate division of the superior court of Vermont will be required to revise the disposition directions set forth in this Contract or, in the alternative, arrangements may be made by the Purchaser's estate or next-of-kin to cover any shortfall.
- I. **FAILURE TO MAKE INSTALLMENT PAYMENTS:** In the event Purchaser fails to make installment payments, Funeral Director may declare that the Contract is in default and may retain five percent of the amount in the escrow account at the time of default. The balance of any amount remaining in the escrow account shall be paid to Purchaser.
- J. **FAILURE TO PERFORM BY FUNERAL DIRECTOR:** If for any reason Funeral Director fails to meet the obligations imposed in this Contract promptly, after a request to do so by an authorized person, the family, next-of-kin or legal representative of the Purchaser, another funeral provider which provides such services or merchandise on behalf of Purchaser, may receive from Escrow Agent the amount in the escrow account.
- K. **TRANSFER:** Funeral Director must transfer the Escrow Account to another funeral service provider if (1) Funeral Director's business is sold; (2) Funeral Director becomes insolvent or bankrupt; or (3) Funeral Director ceases to do business. Funeral Director shall notify Purchaser in writing when any of the events in (1), (2), or (3) occurs and shall transfer the Contract to a funeral director of Purchaser's choice.
- L. **TAXES:** If the Purchaser has designated this Contract revocable, Purchaser is responsible for preparation and filing of any federal and state income tax returns and for payment of any taxes on interest earned in the escrow account. If Purchaser has designated this Contract irrevocable, the Trustee is responsible for preparation and filing of any federal and state income tax returns for payment, from the account, of any taxes on interest earned in the escrow account.
- M. **PURCHASER'S RIGHT TO CHANGE FUNERAL PROVIDER:** Purchaser reserves the right at any time to designate a different funeral director by notification in writing to Funeral Director and Escrow Agent, providing the name and address of the new funeral director. In the event Purchaser changes to a new funeral director, Funeral Director may retain up to five (5) percent of the escrow account.
- N. **ANNUAL REPORT:** Trustee shall instruct Escrow Agent to provide annually to Purchaser or his or her representative, in writing, the following information concerning the escrow account: (1) original deposit, (2) ending balance for the year, (3) interest for the year and (4) debits and credits charged to the account for the year.

#### IV. DECLARATION OF TRUST

Purchaser agrees to provide the money identified in Section II-C above to Trustee named in Section I above to hold the same in trust upon the following terms and conditions:

- A. Trustee shall deposit the money with Escrow Agent in the name of Trustee.
- B. Trustee shall not withdraw the whole or any part of the money, except for the payment of administrative costs and taxes until after the death of Beneficiary, and then only after providing the funeral goods and services specified in Schedule A.
- C. Trustee's administrative costs may not exceed the lesser to two (2) percent of the account, or one-half of the earnings of the previous year.
- D. Change of Escrow Agents by Trustee must be pursuant to Vermont Funeral Board Rule.

#### V. CANCELLATION

Purchaser has until midnight of the third day after signing this Contract to review and revoke this Contract for a full refund. The third day after signing is \_\_\_\_\_.

If Purchaser has not received notice from Escrow Agent that an escrow account has been established within twenty (20) days of signing this Contract, Purchaser may cancel at any time.

#### Statement of Purchaser

**PURCHASER ACKNOWLEDGES THAT HE OR SHE HAS READ THE TERMS AND CONDITIONS OF THIS CONTRACT FOR PREPAID FUNERAL ARRANGEMENT.**

\_\_\_\_\_  
Purchaser's Name Printed

\_\_\_\_\_  
Purchaser's Signature and Date

\_\_\_\_\_  
Funeral Provider (Name of Establishment)

\_\_\_\_\_  
Authorized Funeral Director's Signature and Date

IN WITNESS WHEREOF, Funeral Provider and Purchaser have executed this Contract, intending to the legally bound, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

By: \_\_\_\_\_

Witness

\_\_\_\_\_  
Date